



Paper No. 17

**BASF CORPORATION  
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**JUL 18 2005**

In re Application of  
Walter H. Ohrbom et al  
Application No. 09/998,365  
Filed: November 29, 2001  
Attorney Docket No. IN-5113

**OFFICE OF PETITIONS**

**ON PETITION**

This is a decision on the petition under 37 CFR 1.181, filed January 22, 2004, which is being treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment of the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b), filed April 18, 2005, to revive the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

The petition under 1.137(b) is **DISMISSED** as moot in view of the granting of the petition to withdraw the holding of abandonment under 37 CFR 1.8(b).

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed April 4, 2003, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on December 18, 2003.

The petition of January 22, 2004, asserts that a reply was timely filed to the Office action on June 26, 2003 via facsimile transmission. In support of the assertion of timely filing, petitioner has proffered copies of the previously filed reply; namely, an amendment under 37 CFR 1.111. This correspondence contains a certificate of transmission by facsimile dated June 26, 2003, which would have made the reply timely if received in the U.S. Patent and Trademark Office (USPTO). The petition is also accompanied by a "TX Result Report," which discloses that on June 26, 2003, at 9:11, 16 pages were received at facsimile number 703-305-7718, the same number provided in the Office action of April 4, 2003.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing is addressed in 37 CFR 1.8(b), reproduced below:

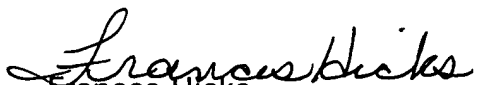
In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The evidence submitted is sufficient to satisfy the conditions of 37 CFR 1.8(b) to withdraw the holding of abandonment in this application. Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions